

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

**MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE**

P R E S E N T

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO: 3250 of 2005

Between:

- 1 Mr. Rayudu Pallayya, S/o. Veeranna, a/a. Nont Known,
R/o. Chemudulanka, H/o. Chopella Village,
Alamuru Mandal, East Godavari District.
- 2 Smt. Bolusu Butchamma, W/o. Kondala Rao, a/a. Nont Known,
R/o. Chemudulanka, H/o. Chopella Village,
Alamuru Mandal, East Godavari District.
- 3 Smt. Karri Nagalakshmi, W/o. Pedda Subba Rao, a/a. Not Known,
R/o. Chemudulanka, H/o. Chopella Village,
Alamuru Mandal, East Godavari District.
- 4 Mr. Tammanna Kokkaraju, S/o. Macharayya, a/a. Not Known,
R/o. Chemudulanka, H/o. Chopella Village,
Alamuru Mandal, East Godavari District.
- 5 Smt. Paluri Satyavathi, W/o. Appa Rao, a/a. Not Known,
R/o. Chemudulanka, H/o. Chopella Village,
Alamuru Mandal, East Godavari District.
- 6 Smt. Eeli Durga, W/o. Venkata Rao, a/a. Not Known,
R/o. Chemudulanka, H/o. Chopella Village,
Alamuru Mandal, East Godavari District.
- 7 Mr. Nagireddy Veravenkata Satyanarayana, S/o. Not Known, a/a. Not
Known, R/o. Chemudulanka, H/o. Chopella Village,
Alamuru Mandal, East Godavari District.

..... PETITIONERS

A N D

- 1 District Collector, East Godavari District, Kakinada.
- 2 Land Acquisition Officer, And Sub-Collector, Near Jayasree Talkies,
Rajahmundry, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or direction or order more particularly one in the nature of a writ of mandamus declaring the action of the respondents in not passing the final award on the lands acquired in R.S.No.20/6 etc., of Chemudulanka, H/o. Chopella Village, Alamuru Mandal, East Godavari District is illegal, unconstitutional and vitiates acquisition proceedings and consequently direct the respondents to forthwith and refer the matter to the Civil Court U/sec. 18 of the L.A. Act for fixation of fair and correct market value of land.

Counsel for the Petitioner: MR.KAKARAVENKATA RAO

Counsel for the Respondents: GP FOR LAND ACQUISITION

ORDER

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This writ petition is filed to declare the action of the respondents in not passing the final award on the lands acquired in RS.No.20/6 etc., of Chemudulanka hamlet of Chopella village of Alamuru Revenue Mandal, East Godavari district, as illegal, unconstitutional and vitiates acquisition proceedings and consequently direct the

respondents to forth with pass award and refer the matter to the civil court under section 18 of the Land Acquisition Act for fixation of fair and correct market value of land.

The petitioners submit that in the year 2002 their land in an extent of Acs:5-56 cents in RS.No.20/6 was acquired by the respondents under the provisions of Land Acquisition Act for providing house-sites to the weaker sections. The respondents have invoked urgency clause for acquiring the said land and dispensed with the normal statutory procedure for conducting enquiry under section 5 (a) and passing of awards etc., before taking possession of the land. Accordingly, the respondents have taken possession of their land without conducting award enquiry and passing the award. However, in view of the provisions of sub-section 3 (a) of Section 17 of the Act, the respondents tendered some amount purporting to be 80% of the compensation for such land. The petitioners submit that the market value of the land in question is Rs.five lakhs per acre and they have been agitating for said quantum of compensation for the land acquired by them. So far, the respondents have neither conducted award enquiry nor passed any order determining the compensation payable to them. In those circumstances, they got issued legal notice on 29-11-2003 through their counsel on the second respondent calling upon him to conduct award enquiry and pass award and refer the matter to civil court under section 18 of the Act for determining proper market value, in case if the Land Acquisition Officer fixes the market value of the land at less than Rs.five lakhs per acre. The petitioners submit that the said legal notice was received by the second respondent on 1-10-2003 but there is no reply nor any action was taken. Therefore, they filed the present writ

petition.

The learned Govt.Pleader appearing for the respondents on instructions submitted that an extent of Acs:5-56 cents of land in RS.No.20/6 of Chemudulanka village hamlet of Choppella village belongs to Rayudu Pallayya and others was acquired under SWLA for provision of house sites to weaker sections of the society. Further the Collector, East Godavari, Kakinada has approved DN and DD under urgency provisions on 22-5-2002. Award enquiry was conducted on 15-7-2002 after duly publishing notice under section 9 (1) and 10 and serving the notice under section 9 (3) and 10. The land owners have produced documentary evidence to prove their title over the land and received 80% compensation on 26-8-2002. All the land owners have participated in negotiations meeting held on 07-11-2002 and given consent for fixation of land value including all benefits @ Rs.2,82,000/- per acre including cost of trees and other benefits entitled as per Land Acquisition Act and entered into an agreement under AP Negotiation Rules 1992. The land was taken possession after payment of 80% compensation and 165 house site pattas were also distributed to SCs, STs and BCs. The total compensation was paid to all the land owners on 30-8-2003 and consent Award No.2/2003, dated 30-10-2003 was passed by the Land Acquisition Officer, Rajahmundry.

The learned Govt.Pleader further submitted that all the land owners have executed a bond in Form-IV under AP Negotiations Rule, 1992 stating that "we hereby declare that we will not claim for payment of higher compensation in any court of law or in any other forum and we shall abide by the consent Award made by the Land Acquisition Collector under Section 11 (2) read with second provision under Section

31 (2) of the Land Acquisition Act.

The learned Govt.Pleader also submitted that the owner and the interested persons shall not claim any amount in addition to the amount agreed upon as aforesaid as compensation and accept it without any protest. The owners/interested persons further agree that they will not claim for higher compensation in any court of law and will not be entitled to file any petition under section 18 of the Land Acquisition Act and such petition if filed shall be void and illegal and that they shall abide by award made by the Land Acquisition Officer. As such, the land owners/petitioners in this writ petition cannot seek reference under section 18 of the Act for higher compensation. The writ petition is devoid of any merits and liable for dismissal. The learned Govt.Pleader also filed a copy of Ref.A/SWLA/706/2005, dated 03-3-2005 sent by the Office of Sub-Collector, Rajahmundry for perusal of this court.

Heard the learned counsel for the petitioners as well as the Govt.Pleader for the respondents.

Admittedly, while filing this writ petition, the petitioners have not filed a copy of the consent award no.2/2003 in Ref.A/SW/2090/1999, i.e., the Proceedings of the Land Acquisition Officer and Sub-Collector, Rajahmundry, dated 30-10-2003. On the other hand, the petitioners tried to impress upon this court that the respondents have not passed final order. As seen from the material filed by the learned Govt.Pleader it appears that the petitioners have extended their consent to pass award and now they cannot turn round and agitate before this court that the respondents have not

passed final order. When the petitioners and other land owners have executed a bond in Form-IV under AP Negotiations Rule, 1992 stating that “we hereby declare that we will not claim for payment of higher compensation in any court of law or in any other forum and we shall abide by the consent Award made by the Land Acquisition Collector under Section 11 (2) read with second provision under Section 31 (2) of the Land Acquisition Act, how can they raise contention that the respondents have not passed final order. After perusing the material filed by the learned Govt.Pleader it appears that the petitioners are playing dilatory tactics before this court and misrepresented the facts.

The writ petition fails and is accordingly dismissed. No costs.

JUNE 20th, 2005. -----

ISL ELIPE DHARMA RAO,J.

To

- 1 The District Collector, East Godavari District, Kakinada.
- 2 The Land Acquisition Officer, And Sub-Collector, Near Jayasree
Talkies, Rajahmundry, East Godavari District.
- 3 Two C.Cs. to G.P. for Land Acquisition, High Court Buildings,
High Court of A.P., Hyderabad (OUT)
- 4 1 CC to MR.VENKATA RAO
- 5 Two C.D. Copies.